IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1676 of 2002
to
FIRST APPEAL No. 1695 of 2002

with

FIRST APPEAL No. 573 of 2003
to
FIRST APPEAL No. 591 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT.JUSTICE ABHILASHA KUMARI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ? No

2 To be referred to the Reporter or not ? No

3 Whether their Lordships wish to see the fair copy of the judgment ? No

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ? No

5 Whether it is to be circulated to the civil judge ? No

==========

SHAKRAJI MADHAJI - Appellant(s)
Versus
SPECIAL LAQ. OFFICER & 1 - Defendant(s)

==========

Appearance :
FA No.1676 to 1685 of 2002:

MR SUNIL K SHAH for Appellant(s)
MR SS SHAH, GP for Respondents(s)

FA No.1686 to 1695 of 2002:

MR SUNIL K SHAH for Appellant(s)
MR SS PATEL, AGP for Respondents(s)

FA No.573 to 582 of 2003:

MR SS SHAH, GP for Appellant(s)
MR SUNIL K SHAH for Respondents(s)

FA No.583 to 591 of 2003:

MR SS PATEL, AGP for Appellant(s)
MR SUNIL K SHAH for Respondents(s)

==========

CORAM : HON'BLE MR.JUSTICE J.M.PANCHAL

and

HON'BLE SMT.JUSTICE ABHILASHA KUMARI

Date : 03/08/2006

ORAL JUDGMENT (Per : HON'BLE MR.JUSTICE J.M.PANCHAL)

1. First Appeals No.1676 to 1695 of 2002 are filed by the claimant/claimants under Section 54 of the Land Acquisition Act, 1894 (“the Act” for short) read with Section 96 of the Code of Civil Procedure, 1908, against the judgment and award dated December 31, 2001, rendered by the learned

2nd Extra Assistant Judge and Special Judge, LAR, Ahmedabad (R) at Navrangpura, in Land Acquisition Case Nos.523/95 to 525/95, 527/95 to 530/95, 532/95 to 535/95, 537/95 to 540/95, 542/95, 2385/96 to 2389/96, by which the claimants are awarded additional compensation at the rate of Rs.78.70 ps. per sq.mt. for agricultural lands and Rs.133=20 per sq.mt. for non agricultural lands over and above the compensation awarded to them by the Special Land Acquisition Officer, and their claim in the appeals is that they should have been awarded compensation at the rate of Rs.150/- per sq.mt. for agricultural lands and Rs.300/- per sq.mt. for non agricultural lands, whereas First Appeals No.573 to 591 of 2003 are filed by the Special Land Acquisition Officer as well as the Executive Engineer, Narmada Project Main Canal, Gandhinagar, against the same judgment and award of the Reference Court rendered in Land Acquisition Case Nos.523/95 to 525/95, 527/95 to 530/95, 532/95 to

535/95, 537/95 to 540/95, 542/95, 2385/96 to 2389/96, wherein, the claim of the appellants is that the claimants should not have been awarded additional compensation at the rate of Rs.78.70 ps. per sq.mt. for agricultural lands and Rs.133=20 per sq.mt. for non agricultural lands.

2. As common questions of facts and law arise for consideration of this Court in the abovenumbered appeals, it is proposed to dispose them of by this common judgment.

3. The Executive Engineer, Narmada Project (Main Canal) Construction Division No.3/4, Gandhinagar, proposed to acquire agricultural lands of village Shela, Taluka: Sanand, District: Ahmedabad, for the public purpose of construction of Narmada Main Canal under Sardar Sarovar Project. On perusal of the said proposal, the State Government was satisfied that agricultural and non-agricultural lands of village Shela

were likely to be needed for the said public purpose. Therefore, a Notification under Section 4(1) of the Act was issued which was published in the official gazette on September 24, 1991. The owners of the lands were served with notices under Section 4 of the Act. They objected to the proposed acquisition. After considering their objections, the Special Land Acquisition Officer forwarded his report as contemplated by Section 5A(2) of the Act to the State Government. On consideration of the said report, the State Government was satisfied that lands of village Shela which were specified in the Notification published under Section 4(1) of the Act were needed for the public purpose of construction of Narmada Main Canal under Sardar Sarovar Project. Therefore, a declaration under Section 6 of the Act was made which was published in the official gazette on June 4, 1992. The interested persons were thereafter served with notices for determination of

compensation payable to them. The claimants appeared before the Special Land Acquisition Officer and claimed compensation at the rate of Rs.200/- per sq.mt. for agricultural lands and Rs.500/- per sq.mt. for non agricultural lands. However, having regard to the materials placed before him, the Special Land Acquisition Officer by his award dated January 31, 1994, offered to the claimants compensation at the rate of Rs.6.30 ps. per sq.mt. for agricultural lands and Rs.6.30 ps. per sq.mt. for non agricultural lands. The claimants were of the opinion that offer of compensation made by the Special Land Acquisition officer was totally inadequate. Therefore, they submitted applications in writing requiring the Special Land Acquisition Officer to refer the matter to the Court for the purpose of determination of just amount of compensation payable to them. Accordingly, References were made to the District Court, Ahmedabad (Rural) at Navrangpura, where they

were registered as Land Acquisition Case Nos.523/95 to 525/95, 527/95 to 530/95, 532/95 to 535/95, 537/95 to 540/95, 542/95, 2385/96 to 2389/96.

4. On behalf of the claimants, claimant – Mafaji Pochaji Thakor was examined at Ex.45. Over and above stating that the lands acquired were highly fertile and that each claimant was earning net profit of Rs.45,000/- per Vigha per year from the sale of agricultural produces, it was stated by him that as per the valuation report of the expert, the price of acquired agricultural lands was Rs.200/- per sq.mt. and that of non agricultural lands was Rs.500/- per sq.mt. It was also mentioned by him that the lands of village Ghuma were near the acquired lands and therefore, previous award of the Reference Court relating to the lands of village Ghuma was relevant piece of evidence to be taken into consideration while determining the market value of the

lands acquired from village Shela. According to him, village Godhavi was also near to the acquired lands and as acquired lands were three times more fertile than the lands of village Godhavi, previous award of the Reference Court, as confirmed by the High Court relating to the lands of village Godhavi, was relevant for the purpose of determining the market value of the lands of village Shela. Another witness, namely Bhikhubhai Ramjibhai Rami, i.e. the expert, was examined by the claimants at Ex.54. During the course of recording of his testimony, said witness produced his report indicating that the price of agricultural lands acquired was Rs.200/- per sq.mt. and that of non agricultural lands was Rs.500/- per sq.mt.

5. On behalf of the respondent No.1 in First Appeal No.1676 of 2002, Ms.Pallaviben Ghanshyambhai was examined at Ex.71. Though at the time of tendering evidence, she was

performing duties as Land Acquisition Officer, she was not concerned with the making of award by her predecessor in office. On behalf of the acquiring body, witness Bharatbhai Vithalbhai Shah was examined at Ex.73. Said witness produced certain maps on the record in order to indicate distance between village Shela and village Godhavi etc.

6. The claimants further produced documentary evidence with list filed at Ex.18 and 47. The claimants produced Village Form No.7/12 relating to acquired lands at Ex.19 to 37 and 48 to 51. The previous award of the Reference Court relating to the lands of village Ghuma was produced by the claimants at Ex.39 whereas previous award of the Reference Court relating to the lands of village Godhavi was produced at Ex.40 and copy of the judgment of the High court upholding the award of the Reference Court relating to the lands of village Godhavi was

produced at Ex.41. Different maps were also produced by the claimants at Exs.42 to 44 to indicate that the acquired lands were situated near village Ghuma and village Godhavi.

7. As far as Land Acquisition officer is concerned, on his behalf, valuation note was produced at Exs.65 and 66 whereas document indicating Panchshali sale deed was produced at Ex.67. Further, the information regarding irrigated lands and non-irrigated lands was produced on his behalf at Ex.68 and various maps were produced at Exs.69 and 70. The acquiring body produced Panchshali sale index at Ex.59, sale index of one year at Ex.60, Anavari at Ex.61 and map of different villages at Ex.62.

8. The Reference Court took into consideration the evidence adduced by the parties. The learned Judge noticed that though the claimants had maintained before the Court

that they were earning Rs.45,000/- per Vigha per year as net profit from sale of agricultural produces, no evidence was produced to substantiate the same nor the claimants had claimed enhanced compensation on the yield basis. According to the Reference Court, the claimants had not produced any Sale Deed on the record of the case to indicate as to what was the market value of the lands of village Shela at or about the time of publication of Notification issued under Section 4(1) of the Act in the official gazette. The learned Judge of the Reference Court noticed that though certain sale instances were relied upon by the Special Land Acquisition Officer and the acquiring body, they had failed to examine either the vendee or the vendor and therefore, it was difficult to rely upon the same for the purpose of determining the market value of the lands acquired in the instant case. According to the learned Judge, the lands acquired were even, and

some of them were agricultural lands whereas others were non agricultural lands. The learned Judge took into consideration Ex.42 which was the map produced by the claimants and held that it was evident from the said map that boundary of village Godhavi, Ghuma, Sarkhej, Sanathal, Telav and Kaneti, were adjoining to village Shela and one road was passing from village Telav to village Shela whereas other roads were coming from village Sanathal, Sarkhej, Vejalpur, Ghuma and Godhavi to village Shela. On perusal of map produced by the claimants at Ex.43, the learned Judge noticed that highway from Sarkhej-Viramgam was passing through the said village Sanathal and boundaries of village Shela were only at a distance of three to four farms away from the said highway. On the basis of map prepared by AUDA, which was produced by the claimants at Ex.44, the learned Judge further held that village Ghuma and village Godhavi were adjoining to village Shela whereas Viramgam

highway was also passing just near village Shela. On the basis of maps produced by the Special Land Acquisition Officer and the acquiring body at Exs.69 and 70, it was held that boundaries of village Shela were adjoining to other villages such as Ghuma, Godhavi, etc. In view of the abovereferred to conclusions and others, the learned Judge of the Reference Court was of the opinion that previous awards of the Reference Court relating to the lands of village Ghuma and Godhavi were relevant for the purpose of determining the market value of lands acquired in the instant case. On the basis of those two previous awards, the Reference court held that the claimants were entitled to additional compensation of Rs.78.70 ps. per sq.mt. for agricultural lands and Rs.133-20 ps. per sq.mt. for non agricultural lands over and above the compensation awarded to the claimants by the Special Land Acquisition Officer, by judgment and award dated December 31, 2001,

giving rise to the abovenumbered appeals.

9. As observed earlier, the claimants have filed appeals for claiming enhanced compensation and their case in the appeals is that they should be awarded compensation at the rate of Rs.150/- per sq.mt. for agricultural lands and Rs.300/- per sq.mt. for non agricultural lands, whereas the claim of the Special Land Acquisition Officer as well as acquiring body in their appeals is that the additional amount of compensation awarded to the claimants by the Reference Court should be set aside.

10. Mr.S.S.Shah, learned Government Pleader, with Mr.S.S.Patel, learned Assistant Government Pleader for the appellants in First Appeals No.573 to 591 of 2003, contended that the previous award of the Reference Court relating to the lands of village Ghuma rendered in Land Acquisition Case No.630 of 1987 on April 26, 1990, was

set aside by the High Court vide Judgment dated August 29, 2000, rendered in First Appeal No.957 of 1999, which fact was not brought to the notice of the Reference court and therefore, the claimants would not be entitled to enhanced compensation on the basis of the previous award of the Reference Court relating to the lands of village Ghuma. It was maintained that as far as the previous award of the Reference Court relating to the lands of village Godhavi which was produced by the claimants at Ex.40 is concerned, village Godhavi is situated at a distance of 8 kms. from village Shela and therefore, the same should not have been relied upon by the Reference Court for the purpose of awarding enhanced compensation to the claimants. It was argued that a bare look at Ex.40 makes it very clear that the Reference Court therein had relied upon the previous award of the Reference Court relating to the lands of village Nedhrad whereas the judgment delivered by the High

Court relating to the lands of village Nedhrad indicates that therein, previous award of the Reference Court relating to the lands of Sanand was considered and therefore, neither the previous award of the Reference Court relating to the lands of village Godhavi was relevant nor the same furnished good guidance for determining the market value of the lands acquired in the instant case from village Shela, and therefore, enhanced compensation awarded to the claimants by the Reference Court should be set aside. The learned Government Pleader emphasized that evidence on record has not been properly appreciated by the learned Judge of the Reference Court and therefore, the appeals filed by the acquiring authorities should be allowed.

11. As against this, Mr.Sunil K.Shah, learned counsel for the claimants, argued that even if the previous award of the Reference Court relating to the lands of village Ghuma is

taken out of consideration, the claimants would be entitled to enhanced compensation on the basis of previous award of the Reference Court relating to the lands of village Godhavi, and therefore, the claim advanced by the claimants in First Appeals No.1676 and cognate appeals that they are entitled to enhanced compensation should be accepted by the Court. It was argued that village Shela, which was fully developed at the time of publication of Notification issued under Section 4(1) of the Act, is situated near Satellite, Bopal, Ghuma and Sarkhej, and therefore, the claimants should have been awarded compensation at the rate of Rs.150/- per sq.mt. for agricultural lands and Rs.300/- per sq.mt. for non agricultural lands. What was maintained by the learned counsel for the claimants was that the boundaries of AUDA are just three kilometers away from Sarkhej-Gandhinagar highway whereas village Shela is situated at a distance of only 300 meters from Sarkhej-

Viramgam highway and in view of the fact that village Shela had all facilities such as primary school, secondary school, veterinary hospital, milk dairy, Rangoli Farm, Railway Station, etc., the Reference court was not justified in not accepting the claim made by the claimants before it. It was contended that the claimants had sought permission of the Reference court to enable them to adduce additional evidence of sale instance of village Godhavi which was unreasonably turned down and which indicated that the price of the lands of village Godhavi at the relevant time was Rs.98/- per sq.mt. and therefore, on the basis of said sale instance, the claimants would be entitled to compensation claimed by them before the Reference Court. The learned cousnel for the claimants asserted that inadequate compensation has been determined by the Reference court payable to the claimants and therefore, the appeals filed by the claimants should be allowed by this

Court.

12. This Court has heard Mr.Sunil K.Shah, learned counsel for the claimants and Mr.S.S.Shah, learned Government Pleader with Mr.S.S.Patel, learned Assistant Government Pleader for the acquiring authorities, at length and in great detail. This Court has also considered the voluminous evidence adduced by the parties before the Reference Court.

13. It is well settled that the function of the Court in awarding compensation under the Act is to ascertain the market value of the land at the date of the Notification under Section 4(1) of the act and the methods of valuation may be; (i) opinion of experts, (2) the price paid within a reasonable time in bonafide transactions of purchase or sale of the lands acquired or of the lands adjacent to those acquired and possessing similar advantages, and (3) a number of

years' purchase of the actual or immediately prospective profits of the lands acquired. Normally, the method of capitalising the actual or immediately prospective profits or the rent of a number of years' purchase should not be resorted to if there is evidence of comparable sales or other evidence for computation of the market value and it can be resorted to only when no other method is available.

14. In the instant case, though it was asserted by the claimants that each claimant was earning net profit of Rs.40,000/- per Vigha per year from sale of agricultural produces, no evidence could be adduced to substantiate the same nor the claimants claimed compensation on the yield basis. Therefore, the question which needs to be considered by this Court is whether on the basis of expert opinion, the claimants would be entitled to enhanced compensation as claimed by them in their appeals or whether the additional

compensation awarded to them by the Reference Court should be set aside as claimed by the acquiring authorities in their appeals.

15. The testimony of expert – Bhikhubhai Ramjibhai Rami is recorded in this case at Ex.54. His evidence indicates that he is a Government approved valuer and that he evaluates the lands after taking into consideration the sale deeds and the awards made by the Courts. The witness stated in his testimony that he had visited the lands acquired on June 20, 2000, and according to him, the value of acquired agricultural lands was Rs.200/- per sq.mt. whereas that of non agricultural lands was Rs.500/- per sq.mt. What was maintained by him before the Court was that the lands of village Shela were better in quality than the lands of village Ghuma and were near to Ahmedabad city. In cross-examination, it was stated by him that he was not shown the award made by

the Land Acquisition Officer. It was further stated by him in cross-examination that though he had taken into consideration five to six sale deeds of 1990-91 for ascertaining the market value of the lands acquired, he was not able to state as to what was the price of the lands indicated in the sale deed dated June 3, 1991. The witness mentioned before the Court that no sale deeds were referred to in his report produced before the Court but he had referred to only agreements to sell. The witness further stated that he had not made any attempt to ascertain whether after execution of agreements to sell, final sale deeds were in fact executed between the parties and that, that was his mistake. The witness frankly admitted before the Court that he had taken into consideration the agreements to sell relating to agricultural lands.

16. On re-appreciation of evidence adduced by the expert, this Court is of the opinion that his evidence is rightly not relied upon by the Reference Court for the purpose of determining the market value of the lands acquired from village Shela. A reasonable reading of the testimony of Mr.Rami makes it very clear that his report was procured by the claimants and it is of no use to the Court while determining the market value of the lands of village Shela which were acquired in the year 1991.

17. Further, witness Mafaji Pochaji Thakor, examined by the claimants at Ex.45, has admitted in his testimony that the development in the village had taken place in the last 7 to 8 years. Therefore, the village as such was not developed fully when Notification under Section 4(1) was published in the official gazette in the year 1991.

18. Under the circumstances, this Court is of the opinion that no case is made out by the claimants for awarding more compensation than awarded by the Reference Court, as claimed in their appeals. However, the contention that the Reference Court has not awarded interest on the amount found payable under Section 23(1-A) of the Act and therefore, appropriate direction should be given to the acquiring authorities to pay the said amount to the claimants, deserves to be accepted. In ***Karimbanakkal Sulaiman (Dead) by LRS. v. Special Tahsildar for K.A.K.P.I.P*** reported in ***(2004) 13 SCC 642***, after relying on the Constitution Bench decision of Supreme Court rendered in ***Sunder v. Union of India*** reported in ***(2001) 7 SCC 211***, it is held in paragraph-4 as under:

> *"4. The counsel for the appellant further pointed out that the Division Bench of the High Court relied on the decision of this Court in Yadavrao P.*

Pathade v. State of Maharashtra [(1996) 2 SCC 570] and denied the appellant interest on solatium and the amount fixed under Section 23(1-A) of the Land Acquisition Act. The decision in Yadavrao P. Pathade was overruled by a Constitution Bench of this Court in Sunder v. Union of India [(2001) 7 SCC 211] and it was held that the interest is payable on the amount of compensation awarded and that includes solatium and the amount awarded under sub-section (1-A) of Section 23. In view of the said decision the appellant herein is entitled to get interest on solatium and also interest on the amount awarded under Section 23(1-A), as provided under Section 28 (amended) of the Land Acquisition Act."

In view of the abovestated principle of law laid down by the Supreme Court, this Court is of the opinion that the claimants would be entitled to get interest on solatium and also interest on the amount awarded under Section 23(1-A) of the Act, as provided under Section 28 (amended) of the Land

Acquisition Act, and to that extent, the appeals filed by the claimants will have to be accepted.

19. As far as First Appeals No.573 to 591 of 2003 filed by the acquiring body are concerned, this Court finds that the previous award of the Reference Court relating to the lands of village Ghuma, which was relied upon by the Reference Court in the instant case for the purpose of awarding additional compensation to the claimants, was set aside by the High Court in First Appeal No.957 of 1991 decided on August 29, 2000. The judgment of the High Court rendered in First Appeal No.957 of 1991 makes it very clear that therein, the award dated April 26, 1990, rendered by the learned Assistant Judge, Ahmedabad (R) at Ahmedabad, in Land Acquisition Case No.630 of 1987 was challenged and the High Court set aside the same and remanded the matter to the Reference Court for re-determination

of compensation payable to the claimants in that case. It may be mentioned that in the instant case, the judgment and award was rendered by the Reference Court on December 31, 2001, i.e. after the judgment of the High Court was delivered on August 29, 2000 in First Appeal No.957 of 1991. If the judgment of the High Court had been brought to the notice of the Reference Court, the Reference Court would not have relied upon the previous award of the Reference Court relating to the lands of village Ghuma while considering the question whether the claimants were entitled to additional compensation or not. On the facts and in the circumstances of the case, this Court is of the opinion that the previous award of the Reference Court relating to the lands of village Ghuma will have to be taken out of consideration while determining the market value of the lands acquired in the instant case.

20. While determining the market value of the lands acquired in the instant case from village Shela, it would be relevant to refer to the testimony of the witness examined on behalf of the claimants. The witness has mentioned that the agricultural lands acquired in the instant case, were more fertile and better in comparison to the lands of village Godhavi. The witness has claimed in his testimony that the acquired lands were situated only at a distance of 300 meters from Sarkhej-Viramgam highway. According to him, Survey No.1025 of village Godhavi is adjoining to Survey No.481 of village Shela and that village Godhavi and village Shela are not only adjoining to each other but are located on the same line, i.e. Gota, Godhavi, and Goraj and that village Shela is near Ahmedabad city. According to this witness, railway line is also passing which is at a distance of hardly three kilometers from village Shela. Thus, the testimony of witness examined by the

claimants would indicate that the lands of village Godhavi and lands of village Shela were almost possessing same advantages and disadvantages and therefore, the previous award of the Reference Court relating to the lands of village Godhavi furnished good guidance for the purpose of determining the market value of the lands acquired from village Shela.

21. As against the evidence adduced by the claimants, it will be relevant to refer to the testimony of Ms.Pallaviben Ghanshyambhai, who was examined on behalf of the Land Acquisition Officer. Her testimony was recorded at Ex.71. It indicates that on the date of tendering evidence before the Court, she was discharging duties as Land Acquisition Officer, Narmada Unit No.3, Ahmedabad, but in fact, had not made the award against which References were sought by the claimants nor had participated in acquisition of lands of village Shela. It

was frankly admitted by her that she was not knowing as to which procedure was adopted for the purpose of acquiring the lands from village Shela. In cross-examination, it was further admitted by her that she was not aware at all about the price of the lands of village Shela as indicated in sale transactions. On behalf of the acquiring body, witness Bharatbhai Vitthalbhai Shah was examined at Ex.73. On the date of tendering his evidence before the Court, he was discharging duties as Deputy Executive Engineer in Narmada Nigam. It was mentioned by him that he had seen the lands acquired and that the Darkhast to acquire lands of village Shela was sent to his office by Special Land Acquisition Officer. It was admitted by the witness that on the agricultural lands of village Shela, different crops like Bajri, Juvar, Arenda etc. were being raised. Though it was mentioned by him that the Land Acquisition Officer had determined the market value of

the lands acquired on the basis of Panchshali sale deed, he could not produce any sale deed for consideration of the Reference Court. In cross-examination by the learned counsel for the claimants, it was admitted by him that border of village Shela was touching Sarkhej-Viramgam highway.

22. On re-appreciation of evidence adduced by the parties, this Court finds that no evidence worth the name could be adduced either by the Special Land Acquisition Officer or by the acquiring body to indicate that the claimants were not entitled to enhanced compensation. Except bringing on record the fact that village Godhavi was at a distance of 8 kms. away from village Shela, nothing could be produced on record by the acquiring authorities to show that the lands of village Godhavi were not similar to the lands of village Shela which were acquired or that fertility of the acquired lands was inferior in any manner to

that of the lands of village Godhavi and the like. A reasonable reading of the evidence adduced by the claimants would indicate that the evidence of the claimants was allowed to go unchallenged on material aspects. On the facts and in the circumstances of the case, this Court is of the opinion that the Reference Court did not commit any error in placing reliance on the previous award of the Reference court relating to the lands of village Godhavi while determining the market value of the lands acquired in the instant case. The fact that previous award of the Reference Court relating to the lands of village Godhavi had, in turn, relied upon the previous award of the Reference Court relating to the lands of village Nedhrad would not make the award inadmissible or irrelevant in any manner. It may be mentioned that previous award of the Reference Court relating to the lands of village Godhavi was confirmed by the High Court in First Appeal Nos.712 to 719 of 2000

and cognate appeals decided by Division Bench of this Court comprising M.H.Kadri and D.P.Buch, JJ. vide judgment dated August 18, 2000. It is also relevant to notice that the judgment of the High Court delivered on August 18, 2000, in abovenumbered appeals was subjected to challenge in Petition(s) for Special Leave to Appeal (Civil) CC 6604-6668/2001 and that after condoning the delay, the Supreme Court dismissed the Special Leave Petitions by order dated September 28, 2001. The fact that previous award of the Reference Court relating to the lands of village Godhavi has attained finality is not in dispute. It is well settled that previous award of the Reference Court relating to similar lands and which has attained finality can be taken into consideration for the purpose of determining market value of the lands acquired from adjoining village. Thus, the Reference Court was justified in placing reliance on previous award of the Reference Court

relating to the lands of village Godhavi and awarding additional compensation to the claimants at the rate of Rs.78.70 ps. per sq.mt. for agricultural lands and Rs.133=20 ps. per sq.mt. for non agricultural lands. It may be mentioned that computation of compensation made by the Reference Court which is found payable to the claimants on the basis of previous award of the Reference Court relating to the lands of village Godhavi is not disputed before this Court. While considering the question whether additional amount of compensation awarded by the Reference Court to the claimants should be upheld or should be annulled, as claimed by the acquiring authorities, it is relevant to notice one glaring fact of the case that the claimants had attempted to produce sale deed relating to the lands of village Godhavi and if that had been permitted to be tendered in evidence, probably, the claimants would have been awarded higher compensation than the amount which is

reflected in the impugned judgment. On overall view of the matter, this Court is of the firm opinion that no case is made out by the acquiring authorities to reduce the amount of additional compensation awarded to the claimants by the Reference Court and therefore, First Appeals No.573 to 591 of 2003 are liable to be dismissed.

23. For the foregoing reasons, First Appeals No.1676 to 1695 of 2002 filed by the claimants are partly allowed. It is held that the claimants would be entitled to get interest on solatium and also interest on the amount awarded under Section 23(1-A) of the Act, as provided under Section 28 (amended) of the Act. First Appeals No.573 to 591 of 2003 are dismissed. As the appeals filed by the acquiring bodies are dismissed, interim relief, if any, granted earlier is hereby vacated. Subject to direction to the acquiring authorities to pay interest on the amount awarded under Section 23(1-A) of the

Act, the award impugned in the appeals is confirmed. The Registry is directed to draw decree in terms of this judgment immediately because acquisition of lands in this case had taken place in the year 1991 and if the decree is drawn in terms of this judgment immediately, the claimants would get the amount as per the decree to be drawn as early as possible and without any avoidable delay.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(sunil)